IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

-

WRIT PETITION NO : 12611 of 1997

Between:

Mekhala William S/o.M.Abraham
C/o.Jonnakuti Nehru Babu,Near Salvation Army Church Ithanagar,Tenali
Guntur District.

..... PETITIONER

AND

The Depot.Manager APSRTC Depot-I
Nellore Nellore District,
Andhra Pradesh.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ or order or direction more particularly one in the nature of Writ of Certiorari, quashing the order of the Depot. Manager, APSRTC Depot-I, Nellore, passed in REF.No.MI/422(8)/93, NLR-I,dt.12-5-1997 an unjust and illegal after calling for the records and to pass such other order or orders that this Hon'ble Court may deem just to pass.

Counsel for the Petitioner: MR.PRATTIPATI VENKATESWARLU

Counsel for the Respondent: MR.R.M.REDDY, SC FOR A.P.S.R.T.C.

The Court made the following:

ORDER:

Heard the learned counsel for the petitioner and the learned Standing Counsel, Mr.R.M.Reddy, appearing on behalf of the respondents.

The petitioner, who has been an employee of the respondent-Corporation worked as an Assistant Depot Clerk, seeks to assail by way of this writ petition the impugned proceedings dated 12.05.1997, whereunder the petitioner was asked to pay a penalty of Rs.46,891.55 ps towards the cost of T & P items.

The case of the petitioner in brief is that in fact on the very same allegations, earlier proceedings have been issued finally on 26.04.1993 itself imposing certain penalties in regard to the increment. However, once again the respondents have issued a show-cause notice on 17.04.1997, for which, the petitioner has filed a detailed and comprehensive explanation on 30.04.1997. In spite of the same, the respondents passed orders on 12.05.1997 without conducting any enquiry, imposing liability on the petitioner for no fault on his part. The impugned proceedings, therefore, were passed without due enquiry and hence it is totally opposed to the principles of

natural justice. Hence, this writ petition.

Having considered the submissions made on either side and also on perusal of the material, the question which requires to be considered in this writ petition is as to whether the impugned orders are in any way vitiated by the principles of natural justice.

There is no dispute to the fact that the petitioner is an employee working as an Assistant Depot Clerk at the relevant point of time and he was charge sheeted on certain allegations. Thereafter, in pursuance of a show-cause notice dated 17.04.1997, the petitioner has filed a detailed explanation on 30.04.1997, whereunder the petitioner not only denied the allegations made against him, but also in fact made attribution against some of the Officers who made him to sign on certain papers. In spite of the same, without any enquiry, the impugned orders were passed on 12.05.1997.

It is now well established that when any such penalty is being imposed with imputation, it necessarily calls for an enquiry and establishing the allegations against an employee, without which, no such penalties can be imposed. In fact, in the explanation, the petitioner made involvement of some of other employees which requires to be tested only during the course of enquiry and not otherwise. Even otherwise, the impugned order also does not show as to the fact that the allegations as contained in the explanation having considered and no reason has been given in support of the ultimate finding or even to reject the reasons as given by the petitioner.

In the circumstances, the impugned order is totally vitiated and opposed to the principles of natural justice and the same is liable to be set aside.

Accordingly, the writ petition is allowed setting aside the impugned order dated 12.05.1997. It shall, however, be open to the respondent herein to hold an enquiry after giving notice and opportunity to the petitioner and pass fresh orders on merits in accordance with law. No

costs.

10.12.2004

VGB

That Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Friday, The Tenth Day of December, Two Thousand and Four.

To

1.The Depot Manager, APSRTC Depot-I
Nellore Nellore District, Andhra Pradesh.

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